

AMENDED IN ASSEMBLY MARCH 29, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

## ASSEMBLY BILL

No. 2019

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### Introduced by Assembly Member Hill

February 23, 2012

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An act to amend Sections 1527.6 and 1527.8 of, ~~and to add Section 1527.15 to~~, the Health and Safety Code, *and to amend Section 676.7 of the Insurance Code*, relating to the Foster Family Home and Small Family Home Insurance Fund.

#### LEGISLATIVE COUNSEL'S DIGEST

AB 2019, as amended, Hill. Foster Family Home and Small Family Home Insurance Fund.

Existing law establishes within the State Department of Social Services the Foster Family Home and Small Family Home Insurance Fund, consisting of moneys appropriated by the Legislature, for the purposes of paying, on behalf of foster family homes and small family homes, as defined, claims of foster children, their parents, guardians, or guardians ad litem resulting from occurrences peculiar to the foster care relationship and the provision of foster care services. Existing law requires the department to approve or reject a claim within 180 days after it is ~~presented~~ *presented and requires the department, or a designated agency, to notify the claimant of its decision.*

This bill would ~~require that any claim not approved or rejected within 180 days be deemed approved. The bill would require the department or its designated agency to ensure that a claimant receives notification of the decision to approve or reject a claim within 15 days of the decision~~ *provide that any applicable statute of limitations for a cause of action that arises from the same occurrence for which a claim has been filed*

*with the fund shall not commence until the person has been notified that his or her claim with the fund has been approved or rejected.*

Existing law states the intent of the Legislature to maintain the Foster Family Home and Small Family Home Insurance Fund at an adequate level to meet anticipated liabilities.

This bill would instead require that the fund be maintained at an adequate level to meet anticipated liabilities. ~~The bill would require the department to use claims information to make recommendations to the Legislature regarding the amount of funding necessary to meet these purposes. This bill also would require the department to report to the Legislature by January 1, 2015, on the feasibility of expanding coverage of the fund, on a revenue-neutral basis, to homes that are certified by foster family agencies.~~

*Existing law prohibits an admitted insurer, as specified, from, among other things, refusing to accept an application for, or cancelling certain insurance policies solely on the basis that, an applicant or policyholder is engaged in foster home activities in a licensed foster family home or licensed small family home, as defined.*

*This bill would also apply these provisions to a certified family home, as defined.*

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1     ~~SECTION 1. Section 1527.15 is added to the Health and Safety~~
- 2     ~~Code, to read:~~
- 3     ~~1527.15. (a) By January 1, 2015, the State Department of~~
- 4     ~~Social Services shall report to the Legislature on the feasibility of~~
- 5     ~~expanding coverage of the fund, on a revenue-neutral basis, to~~
- 6     ~~homes that are certified by a foster family agency, as defined in~~
- 7     ~~paragraph (4) of subdivision (a) of Section 1502.~~
- 8     ~~(b) (1) The report required pursuant to subdivision (a) shall be~~
- 9     ~~submitted in compliance with Section 9795 of the Government~~
- 10    ~~Code.~~
- 11    ~~(2) The requirement for submitting a report imposed under~~
- 12    ~~subdivision (a) is inoperative on January 1, 2017, pursuant to~~
- 13    ~~Section 10231.5 of the Government Code.~~

1     ~~SEC. 2.~~

2     ~~SECTION 1.~~ Section 1527.6 of the Health and Safety Code is  
3 amended to read:

4     1527.6. (a) ~~Any~~A claim against the fund shall be filed with  
5 the fund in accordance with claims procedures and on forms  
6 prescribed by the State Department of Social Services or its  
7 designated contract agency.

8     (b) ~~Any~~A claim against the fund filed by a foster parent or a  
9 third party shall be submitted to the fund within the applicable  
10 period of limitations for the appropriate civil action underlying  
11 the claim, subject to subdivision (a) of Section 352 of the Code of  
12 Civil Procedure as that section applies to a minor. If a claim is not  
13 submitted to the fund within the applicable time, there shall be no  
14 recourse against the fund.

15     (c) (1) The department shall approve or reject a claim within  
16 180 days after it is presented. ~~If a claim is not approved or rejected~~  
17 ~~within 180 days, the claim shall be deemed approved.~~

18     (2) The department or an agency designated pursuant to Section  
19 1527.1 shall notify a claimant of the decision to approve or reject  
20 a claim within 15 days of the decision.

21     ~~(3) An agency designated pursuant to Section 1527.1 shall~~  
22 ~~provide claims information to the department. The department~~  
23 ~~shall use this information to make annual recommendations to the~~  
24 ~~Legislature regarding the necessary amount of funding to meet the~~  
25 ~~requirements of Section 1527.8.~~

26     (d) (1) ~~No~~A person may *not* bring a civil action against a foster  
27 parent for which the fund is liable unless that person has first filed  
28 a claim against the fund and the claim has been rejected, or the  
29 claim has been filed, approved, and paid, and damages in excess  
30 of the payment are claimed.

31     (2) *An applicable statute of limitations for a cause of action*  
32 *that arises out of the same occurrence for which a claim has been*  
33 *filed with the fund shall not commence until the date the*  
34 *department, or an agency designated pursuant to Section 1527.1,*  
35 *has notified the person that the department has either rejected or*  
36 *approved the claim.*

37     ~~SEC. 3.~~

38     ~~SEC. 2.~~ Section 1527.8 of the Health and Safety Code is  
39 amended to read:

1 1527.8. The fund established pursuant to Section 1527.1 shall  
2 be maintained at an adequate level to meet anticipated liabilities.

3 *SEC. 3. Section 676.7 of the Insurance Code is amended to*  
4 *read:*

5 676.7. (a) No admitted insurer, licensed to issue and issuing  
6 homeowner's or tenant's policies, as described in Section 122,  
7 shall (1) fail or refuse to accept an application for that insurance  
8 or to issue that insurance to an applicant or (2) cancel that  
9 insurance, solely on the basis that the applicant or policyholder is  
10 engaged in foster home activities in a licensed foster family home  
11 or licensed small family home, as defined in Section 1502 of the  
12 Health and Safety ~~Code~~ *Code, or a certified family home, as*  
13 *defined in Section 1506 of the Health and Safety Code.*

14 (b) Coverage under policies described in subdivision (a) with  
15 respect to a foster child shall be the same as that provided for a  
16 natural child. However, unless specifically provided in the policy,  
17 there shall be no coverage expressly provided in the policy for any  
18 bodily injury arising out of the operation or use of any motor  
19 vehicle, aircraft, or watercraft owned or operated by, or rented or  
20 loaned to, any foster parent.

21 (c) It is against public policy for a policy of homeowner's or  
22 tenant's insurance subject to this section to provide liability  
23 coverage for any of the following losses:

24 (1) Claims of a foster child, or a parent, guardian, or guardian  
25 ad litem thereof, of a type payable by the Foster Family Home and  
26 Small Family Home Insurance Fund established by Section 1527.1  
27 of the Health and Safety Code, regardless of whether the claim is  
28 within the limits of coverage specified in Section 1527.4 of the  
29 Health and Safety Code.

30 (2) An insurer shall not be liable, under a policy of insurance  
31 subject to this section, to any governmental agency for damage  
32 arising from occurrences peculiar to the foster-care relationship  
33 and the provision of foster-care services.

34 (3) Alienation of affection of a foster child.

35 (4) Any loss arising out of licentious, immoral, or sexual  
36 behavior on the part of a foster parent intended to lead to, or  
37 culminating in, any sexual act.

38 (5) Any loss arising out of a dishonest, fraudulent, criminal, or  
39 intentional act.

1 (d) There shall be no penalty for violations of this section prior  
2 to January 1, 1987.

3 (e) Insurers may provide a special endorsement to a  
4 homeowners' or tenants' policy covering claims related to foster  
5 care that are not excluded by subdivision (c).

6 (f) Insurers may provide by a separate policy for some or all of  
7 the claims related to foster care that are excluded by subdivision  
8 (c).

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